

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

Michael Koziara, Plaintiff, v. BNSF Railway Co., Defendant.	Case No. 13-cv-834-jdp PLAINTIFF’S RULE 26(a)(3) DISCLOSURES
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PLAINTIFF’S WITNESS LIST

Plaintiff Michael Koziara (“Koziara”) submits the following witness list; however, he reserves the right to amend this list as necessary before and/or during trial, call witnesses from Defendant BNSF Railway Co.’s (“BNSF”) witness list, and offer additional witnesses for impeachment, foundation or rebuttal.

i. Witnesses Koziara Expects to Present:

1.	Chris Davis c/o Brotherhood of Maintenance of Way Employes Division of the IBT 41475 Gardenbrook Road Novi, MI 48375-1328
2.	Michael Heille c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
3.	Joan Koziara c/o Nichols Kaster, PLLP IDS Center 80 South Eighth Street, Suite 4600 Minneapolis, Minnesota 55402
4.	Plaintiff Michael Koziara c/o Nichols Kaster, PLLP IDS Center 80 South Eighth Street, Suite 4600 Minneapolis, Minnesota 55402

5.	Al Mitchell W9772 County Road I Pepin, WI 54759
6.	Daniel Rankin c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
7.	Dan Stern 301 Hart Street Melrose, WI 54642
8.	Brad Underhill 44080 Dakota Valley Drive Dakota, Minnesota 55925
9.	Mike Veitz c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
10.	Eric Weber c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
11.	Jerry Weis 915 Eastwood Street Holmen, WI 54636
12.	Mack Wiens c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
13.	Gary Wischover c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402

ii. Witnesses Koziara May Call if the Need Arises

1.	Bill Barbee c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
2.	Russ Ingebritson

	7141 Amundson Avenue Edina, MN 55439
3.	Don Jones c/o Ogletree, Deakins, Nash, Smoak & Steward, P.C. Wells Fargo Center 90 South Seventh Street, Suite 3800 Minneapolis, MN 55402
4.	Don Willing 406 N. Daviess Street Gallatin, MO 64640
5.	Greg Zielke 5126 N. State Street Onalaska, WI 54650

iii. Testimony Plaintiff Intends to Present Via Deposition Transcript:

Koziara may need to present Eric Weber's testimony via his deposition, of which Koziara designates pages 1-3, 7:7-14, 11:18-14:15, 33:4-18, 35:6-25, 38:12-41:14, 66:18-67:3, 92:2-93:19, 97:13-98:15, 115:1117:8, 128:25-130:11, 131:1-134:10, 136:6-138:10, 140:5-11, 140:22-141:19, 142:25-143:9, 144:14-145:8, 146:10-20, 154:11-16. Koziara may also need to present Mack Wiens's testimony via his deposition, of which Koziara designates pages 1-3, 4:6-13, 8:25-9:14, 9:22-10:17, 17:10-20:23, 22:10-22, 25-26:13, 26:9-27:7, 30:20-31:4, 32:9-11, 32:14-36:9, 37:12-41:21, 42:24-43:2, 43:18-47:4, 48:9-12. Koziara reserves the right to amend this list as necessary before and/or during trial.

PLAINTIFF'S EXHIBIT LIST

Koziara submits the following exhibit list; however, he reserves the right to amend this list as necessary before and/or during trial, use exhibits from BNSF's exhibit list, and offer additional exhibits for impeachment or rebuttal. Koziara also reserves the right to object to the admissibility of documents that may be offered by BNSF at the trial, regardless of whether they are identified on this list.

No.	Description
P-1	Koziara's FRA Injury Report, Bates Nos. BNSF253-255
P-2	Koziara's PI Report, Bates Nos. BNSF256-257/Koziara167, 761-762
P-3	BNSF's Code of Conduct, Bates Nos. BNSF266-294
P-4	BNSF's Internal Control Plan, Bates Nos. BNSF304-532
P-5	Maintenance of Way Operating Rules, Bates Nos. BNSF533-652
P-6	Maintenance of Way Safety Rules, Bates Nos. BNSF661-770
P-7	Notice of Suspension, Bates No. BNSF771
P-8	Notice of Termination (Alleged Theft), Bates No. BNSF772
P-9	Koziara's Medical Records from September 13, 2010, ¹ Bates Nos. BNSF787-788
P-10	Email from Veitz to West, Bates No. BNSF896
P-11	Pictures of the Crossing, Bates Nos. BNSF904-910
P-12	Pictures of the Front-End Loader, Bates Nos. BNSF911-916
P-13	Koziara's Employee Transcript, ² Bates Nos. BNSF925-931

¹ The records include Koziara's irrelevant medical information. Such information is irrelevant and should be redacted.

² The transcript includes Koziara's prior discipline, the details of which are irrelevant. Such discipline should be redacted pursuant to the Court's order on Plaintiff's Motion in Limine to Exclude Evidence of Koziara's Unrelated Prior Discipline.

P-14	Exhibit 4a from Koziara's Investigatory Hearing (Alleged Theft) with the Declarant's Name (Chris Davis) Excluded, Bates No. BNSF1017/Koziara403
P-15	Exhibit 4b from Koziara's Investigatory Hearing (Alleged Theft) with the Declarant's Name (Gerald Weis) Excluded, Bates No. BNSF1018/Koziara404
P-16	Chart of Koziara's Taxes and Fringe Benefits, Bates No. BNSF1683
P-17	Koziara's Monthly Payment History, Bates Nos. BNSF1718-1721
P-18	BNSF's Policy for Employee Performance Accountability, Bates Nos. BNSF2106-2114
P-19	BNSF's Reenactment Report, Bates No. BNSF2332
P-20	BNSF's General Code of Operating Rules, Bates Nos. BNSF2335-2492
P-21	BNSF's Incentive Compensation Plan, Bates Nos. BNSF2504-2508
P-22	BNSF's Agreement with Pioneer Sands, Bates Nos. BNSF2524-2539
P-23	BNSF's Personal Property Removal Agreement, Bates Nos. BNSF2540-2565
P-24	Veitz's Calendar, Bates Nos. BNSF 2566-2604
P-25	BNSF's Employee Safety Rules, Bates Nos. BNSF 2704-2775
P-26	BNSF's TY & E Safety Rules, Bates Nos. BNSF 2886-2935
P-27	BNSF's Mechanical Safety Rules, Bates Nos. BNSF2936-3095

P-28	Koziara's PPI Detail, ³ Bates No. BNSF3096
P-29	BNSF's Personal Performance Index, Bates No. BNSF3097
P-30	Koziara's Phone Records, Bates Nos. Koziara567-568
P-31	Notice of Investigation (Alleged Theft), Bates No. Koziara566
P-32	Exhibit 4a from Koziara's Investigatory Hearing (Alleged Theft) with the Declarant's Name (Chris Davis) Included, Bates No. Koziara570
P-33	Notice of Investigation (Injury), Bates No. Koziara573
P-34	Exhibit 4c from Koziara's Investigatory Hearing (Alleged Theft) with the Declarant's Name Included (Dan V.), Bates No. Koziara577
P-35	Exhibit 4c from Koziara's Investigatory Hearing (Alleged Theft) with the Declarant's Name (Gerald Weis) Included, Bates No. Koziara580
P-36	September 20, 2010 Letter from Horton (Sr. Claims Representative for BNSF) to Koziara, Bates No. Koziara 660

Dated: January 30, 2015

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³ The detail includes a parenthetical, which was added by BNSF for this litigation. Such parenthetical should be redacted.

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